

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

THE ESTATE OF ERIK A. POWELL, ) Civil No.  
THROUGH PERSONAL REPRESENTATIVE ) CV04-00428LEK  
MARY K. POWELL; THE ESTATE OF )  
JAMES D. LAUGHLIN, THROUGH PERSONAL )  
REPRESENTATIVE RAGINAE C. LAUGHLIN; )  
MARY K. POWELL, INDIVIDUALLY; )  
RAGINAE C. LAUGHLIN, INDIVIDUALLY; )  
CHLOE LAUGHLIN, A MINOR, THROUGH )  
HER NEXT FRIEND, RAGINAE C. )  
LAUGHLIN, )

Plaintiffs, )

vs. )

CITY AND COUNTY OF HONOLULU, )

Defendant, )

and )

CITY AND COUNTY OF HONOLULU, )

Third-Party Plaintiff, )

vs. )

UNIVERSITY OF HAWAII, a body )  
corporate; JOHN DOES 1-10, JANE )  
DOES 1-10; DOE CORPORATIONS and )  
DOE ENTITIES, )

Third-Party Defendants. )

DEPOSITION OF DANIEL NEVES

Taken on behalf of Plaintiffs at the Law Offices  
of Ian L. Mattoch, 737 Bishop Street, Suite 1835,  
Honolulu Hawaii, commencing at 2:00 p.m. on March  
24, 2006, pursuant to Notice.

Before: WILLIAM T. BARTON, RPR, CSR NO. 391

**EXHIBIT** "13"

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1 Buchanan was not there that day. He was at  
2 Waimanalo.  
3 Q. What about Brandon?  
4 A. Tim Brandon? I'm not sure. I don't  
5 believe so.  
6 Q. Shawn Chun was there that day?  
7 A. Correct.  
8 Q. At the very bottom of the row, under "On  
9 Call," is that your name?  
10 A. Correct.  
11 Q. Neves? So you and Burgess were on call?  
12 A. Yes.  
13 Q. Back on July 19, 2002, do you remember  
14 the types of signage that was used or posted at  
15 Hanauma Bay by the beach?  
16 A. Well, of course, like, you know, stuff  
17 like Portuguese Man-O-Wars, jellyfish, strong  
18 current, if need be. You know, just the regular  
19 signs that we have.  
20 Q. Who would decide which signs to put up?  
21 A. Everybody down there, down at Hanauma  
22 Bay would decide.  
23 Q. After looking at the area and seeing  
24 what needs to be posted?  
25 A. Correct.

1 We're trying to pick out which ones, you  
2 know, that look like they could have a heart  
3 attack or looks like they did have a heart attack.  
4 There are just so many things to look  
5 for. I don't know where to start.  
6 Q. Did you find that, through experience,  
7 you were able to pinpoint some people more than  
8 others?  
9 A. I can't say that. Every one of the  
10 lifeguards has their own special thing about them  
11 that they're really good at. I'm no better than  
12 they are. I'm just willing to stay in a place  
13 they don't want to be in.  
14 Q. Do you know whether the lifeguards ever  
15 gave specific instructions about where people  
16 could and couldn't swim in the bay?  
17 MR. MAYESHIRO: Vague and ambiguous as  
18 to time. Lacks foundation. Calls for  
19 speculation.  
20 A. I believe we did call up that day, and  
21 we didn't -- we had the Toilet Bowl closed and the  
22 Witches Brew closed. We had it fenced with like a  
23 nylon. We pulled it across and stuck it in its  
24 hole.  
25 Q. You're talking about July 19, 2002,

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1 Q. When you were on duty, did you mainly  
2 sit at Tower 3 Alpha or 3 Bravo?  
3 A. At that specific time, I was a lot at 3  
4 Alpha.  
5 Q. That was with Clarence Moses?  
6 A. Correct.  
7 Q. Why do you recall that specific time?  
8 A. I was really training a lot at that  
9 time. I was wanting a full-time position.  
10 Q. And was 3 Alpha particularly challenging?  
11 A. To anybody. It's a mental traumatic  
12 place to be, if you're not mentally ready for it.  
13 Q. Did you feel that you were mentally  
14 ready for it?  
15 A. I've always been ready for it. That's  
16 why they stuck me there five days a week, as a  
17 contract.  
18 Q. So when you scanned the water for visual  
19 patterns, what swimmers are doing, what types of  
20 things do you look for as far as their skill  
21 level?  
22 A. Well, right away, when they come down  
23 the bay, we are watching everybody. In the water,  
24 coming down. We're not looking at them as people.  
25 We're looking at them as a possible problem.

1 right, the day of the drownings?  
2 A. Correct. And/or any day that we would  
3 not think that it was proper to go out there.  
4 Just because I can do it doesn't mean you guys can  
5 do it.  
6 We looked at what we thought people  
7 couldn't do, and we decided that on our own.  
8 Q. The lifeguards did?  
9 A. Correct.  
10 Q. And what precautions were you, as  
11 lifeguards, able to take to prevent people from  
12 swimming out in those areas?  
13 A. A lot of blow horn, a lot of telling  
14 people, Don't go past these buoys, don't go  
15 over -- don't pass the reef.  
16 There was nothing to see out there. On  
17 those kinds of days, there's nothing. You can't  
18 see -- you cannot see the bottom.  
19 Q. Explain, if you could, the conditions on  
20 that day.  
21 A. It was God's miracle that Clarence Moses  
22 and I seen him at all.  
23 Q. And you're referring to the first man  
24 that you saved?  
25 A. That's correct.